

THE HONORABLE BRIAN D. LYNCH
CHAPTER 13
HEARING DATE: April 14, 2022
HEARING TIME: 1:30 P.M.
LOCATION: Tacoma
RESPONSE DATE: April 7, 2022

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT TACOMA**

In Re:

JASON ALBERT OVERTON and
ROSEMARENA MAE OVERTON,

Debtors.

Case No.: 17-40242-BDL

**NOTICE OF HEARING AND MOTION FOR
DETERMINATION OF FINAL CURE AND
PAYMENT**

NOTICE

YOU ARE HEREBY NOTIFIED that a hearing on Trustee's Motion for
Determination of Final Cure and Payment will be heard before the Honorable Brian D. Lynch at
1:30 P.M. on April 14, 2022, at the U.S. Bankruptcy Courthouse, 1717 Pacific Avenue,
Courtroom I, Tacoma, WA 98402.

IF YOU OPPOSE this motion, you must file your written response with the Court Clerk and deliver copies on the undersigned and all interested parties, NOT LATER THAN THE RESPONSE DATE, which is **April 7, 2022**. You should also appear at the time of

Michael G. Malaier
Chapter 13 Standing Trustee
2122 Commerce Street
Tacoma, WA 98402
(253) 572-6600

1 hearing. If you fail to do so, the Court may enter an order granting the motion without any
2 hearing and without further notice.

3 **MOTION**

4 **COMES NOW**, Michael G. Malaier, the Chapter 13 Standing Trustee, and hereby
5 requests the Court make determination of final cure and payment pursuant to Fed. R. Bankr. P.
6 3002.1(h) as follows:

7 Debtors' Chapter 13 plan was confirmed on April 14, 2017, providing for payment of the
8 claim of Wells Fargo Mortgage (ECF No. 7) which was later transferred to Rushmore Loan
9 Management Services ("Creditor") (ECF No. 51) to be made through the plan.

10 According to Trustee's records at the time of filing this Motion, Debtors are current on
11 their pre and post-petition mortgage payments through April, 2022, with the next mortgage
12 payment due May 2, 2022. *See* Declaration of Tracy Maher. Trustee's records reflect that
13 Debtors' pre-petition mortgage arrears have been paid in full. *Id.* Since the Debtors' plan was
14 confirmed, a total of \$120,753.48 has been disbursed to Creditor. Additional payments may be
15 disbursed prior to the hearing.

16 Trustee has reached out to Creditor to determine the basis of the claimed difference in
17 accounting, but to date, has not received any response. The only issue preventing closure of this
18 case and issuance of Trustee's Final Report is a determination as to the post-petition status of
19 Creditor's claim. It is prejudicial to the Debtors to allow Creditor to prevent the closure of this
20 case based on the assertion of an unsupported discrepancy and instead raise the issue after all
21 payments have been made under the plan.

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25 Michael G. Malaier
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WHEREFORE the Trustee respectfully requests that the Court make a determination that the Debtors have cured the default and made all ongoing payments under the terms of the plan and that the loan is current through April, 2022, as of the date of this motion.

DATED this 18th day of March, 2022.



Mathew S. LaCroix, WSBA #41847 for
Michael G. Malaier, Chapter 13 Trustee

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